

REMARKS

A. The Status of the Claims and the Amendments

Applicants respectfully request entry of amendments to claims 1 and 13 and the cancellation of claims 11 and 12 without disclaimer or prejudice. Support for the amendments can be found generally throughout the specification and the originally filed claims, and specific support related to the amendment language is found at least in paragraphs [0094], [0100], [0101], [0107], [0131-0137], [0170] and [0242] and Examples 12-15 of the specification. Therefore the claim amendments do not add new matter. Furthermore, based on the fact that all remaining claims 2-10 and 14-22 are dependent claims based on either claim 1 or claim 13 the claim amendments effect all pending claims.

Applicants submit that pending claims 1-10 and 13-22 are in condition for allowance, and respectfully request that the claims as amended be entered.

B. Response to Examiner Interview and Examiners Summary.

Applicants graciously thank both the Examiner and Supervising Examiner for taking the time to review the case on September 8, 2008. Additionally, Applicants thank the Examiner for detailing the discussions regarding the claim amendments and the §112 first paragraph issues in the Interview Summary mailed September 10, 2008. The current amendments are believed to be reflective of the “discussed proposed claim amendments to potentially obviate the standing claim rejections under 35 USC 112, first paragraph”.

Terms specifically discussed were 1) oligonucleotide length and 2) sequence structure and the ability to elicit a 3) non-antigen specific response in the presence of liposomes.

Regarding item 1) Applicants have amended claims 1 and 13 to specifically encompass the sequence length from “more than 25 to about 100 nucleotides” as discussed in the interview. Support for this amendment is found at least in paragraph [0107] and Examples 12-15 of the specification.

Regarding item 2) Applicants have amended the sequence structure of claims 1 and 13 to be a DNA molecule instead of an oligonucleotide in general. Support for this amendment is found at least in previous claim 11 and paragraphs [0131-0137] and [0178].

Regarding item 3) Applicants have amended claims 1 and 13 so that the non-antigen specific immune response is a Th1 immune response. Support for this amendment is found at least in paragraphs [0094], [0100], [0101], and [0170].

Based on the discussed amendments the Examiners indicated that “should Applicants’ arguments be found persuasive to overcome the applied rejections, an after-final amendment of the claims would be entered and a new office action issued, if appropriate prior art is found.” In light of the above statement, Applicants respectfully request the amendments be entered and the claims either allowed or subject to a new Office Action if an additional Examiner search yields appropriate prior art.

Please note, that the amendments are being made for business considerations without acquiescing to the reasoning offered by the Office Action, and in the interest of advancing prosecution. Any amendments made are without prejudice and Applicants reserve the right to file any and all of the original claims in future continuation, divisional, or CIP applications.

C. Response to Final Office Action §112, First Paragraph.

Claims 1-22 stand rejected under 35 USC §112, first paragraph for allegedly failing to comply with the written description requirement. In light of the Examiner discussions and

In re Application of

Dow et al.

Application No.: 10/780,294

Filed: February 17, 2004

Page 7

PATENT

Attorney Docket No. JUVARIS1110

amendments made based on the Examiner interview the above amendments render the rejections moot.

Applicants respectfully request that the rejection be withdrawn.

Claims 1-22 additionally stand rejected under 35 USC §112, first paragraph for allegedly failing to comply with the enablement requirement. As all §112 first paragraph rejections were discussed in the Examiner Interview the above amendments made based on the Examiner interview render the rejections moot.

Applicants respectfully request that the rejection be withdrawn.

In re Application of
Dow et al.
Application No.: 10/780,294
Filed: February 17, 2004
Page 8

PATENT
Attorney Docket No. JUVARIS1110

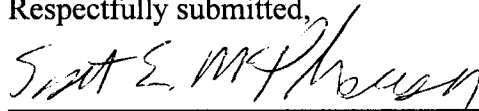
CONCLUSION

In view of the above amendments and remarks, reconsideration and favorable action on all claims 1-10 and 13-22 are respectfully requested. In the event any matters remain to be resolved, the Examiner is requested to contact the undersigned at the telephone number given below so that a prompt disposition of this application can be achieved.

The Commissioner is hereby authorized to charge \$1,110 as payment for the Petition for Three-Month Extension of Time. Additionally, the Commissioner is hereby authorized to charge any fees that may be due in connection with the filing of this paper, or credit any overpayment to Deposit Account No. 07-1896, referencing the above-identified docket number.

Date: February 19, 2009

Respectfully submitted,



Scott E. McPherson
Attorney for Applicants
Registration No. 53,307
Telephone: (858) 677-1409
Facsimile: (858) 677-1465

DLA PIPER LLP (US)
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133
USPTO CUSTOMER NO. 28213